

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: Yolanda James,

Misc. Case No.

Case: 2:23-mw-40002

Assigned To : Parker, Linda V.

Assign. Date : 3/3/2023

USA V. SEALED MATTER (CMC)

**GOVERNMENT'S MOTION AND AFFIDAVIT IN SUPPORT OF
ISSUANCE OF MATERIAL WITNESS WARRANT**

The United States of America, by its undersigned attorneys, files this motion seeking a material witness warrant pursuant to 18 U.S.C. § 3144 for YOLANDA JAMES. Pursuant to 18 U.S.C. § 3144, a court may issue an order for the arrest of a witness if (a) the testimony of the person is material in a criminal proceeding, and (b) it may become impracticable to secure the presence of the person by subpoena.

1. Yolanda James is a material witness in *United States v. Marcus Smith*, 22-CR-20073, a criminal case set for trial on March 21, 2023.
2. Please see attached affidavit for the basis of the material witness warrant.

Thus, based on the requisite showing as set forth above, the government requests that the Court issue a material witness warrant for YOLANDA JAMES

and that the warrant remains in effect until she provides testimony at trial, or until a deposition can be scheduled, whichever comes first.



Tare Wigod
Ranya Elzein
Assistant United States Attorneys

Date: March 2, 2023

Sworn and subscribed before me and/or by reliable electronic means

This ____ 3rd ____ day of ____ March ____, 2023.



Kimberly G. Altman
United States Magistrate Judge

IT IS HEREBY ORDERED that a material witness warrant shall issue for YOLANDA JAMES for the reasons set forth above.



Kimberly G. Altman
United States Magistrate Judge

Date: March 3, 2023

**AFFIDAVIT IN SUPPORT OF ARREST WARRANT FOR
MATERIAL WITNESS PURSUANT TO 18 U.S.C. § 3144**

I, Dianna Napier, being first duly sworn, hereby depose and state as follows:

1. I am a police officer with the Wayne State University Police Department, having been so employed for 14 years. Prior to that, I was a Deputy Sheriff with the Wayne County Sheriff's Office for six years. I am currently assigned to the FBI Violent Gang Task Force.
2. Among other things, my duties include the investigation of federal crimes of violence, including firearms violations. As part of my duties, I have investigated federal criminal violations such as crimes involving violence, firearms, and narcotics trafficking. More specifically, I have been involved in investigations into the unlawful use and possession of firearms, possession with the intent to distribute controlled substances, armed robberies, homicides, assaults, gangs, national security investigations, and other criminal violations.
3. I am involved in the investigation and prosecution of defendant Marcus Smith, who is charged with being a felon in possession of a firearm in case number 22-CR-20073 as a result of his alleged possession of a firearm and ammunition on October 31, 2018, in Detroit, Eastern District of Michigan.
4. I submit this affidavit in support of arrest warrants for YOLANDA JAMES and RONALD JAMES JOHNSON. As set forth in more detail below,

JAMES and JOHNSON are material witnesses in the case of *United States v. Marcus Smith*, 22-CR-20073. Both witnesses have expressed intentions not to testify at trial in that case and appear to be actively ignoring attempts at personal service of subpoenas. Further, I have been unable to locate JAMES or JOHNSON, to identify a current address or phone number for JAMES, and to identify a current address for JOHNSON. I am therefore requesting that arrest warrants be issued under 18 U.S.C. § 3144.

5. YOLANDA JAMES and RONALD JAMES JOHNSON have information that is material to the above-referenced prosecution. More specially, YOLANDA JAMES and RONALD JAMES JOHNSON witnessed defendant Marcus Smith possess and fire a firearm on October 31, 2018, during an argument with JOHNSON outside of JAMES' home in Detroit. They are the sole known witnesses to Smith's alleged possession and discharge of a firearm and are therefore witnesses who are material and essential to the prosecution of Smith.

6. Trial in the case against Marcus Smith is set for March 21, 2023.

Attempts to Contact and Serve Yolanda James

7. On July 5, 2022, I served JAMES, via email, a subpoena to testify at the trial in this case that was previously scheduled for August 23, 2022. I received an email from JAMES indicating that she received the subpoena. I also personally served JAMES at her home on February 15, 2022.

8. On August 22, 2022, I spoke with JAMES over the phone, at phone number 248-XXX-4056, and informed her that the August 23 trial was postponed. JAMES informed me that she did not wish to testify at any future trials against Marcus Smith, stating that she felt she was not required to do so because she had previously provided sworn testimony in this case. JAMES informed me that she was not going to future court dates and that she will go to jail instead.

9. On February 3, 2023, I received a subpoena from the United States Attorney's Office requiring JAMES to appear for the March 21, 2023, trial in this case.

10. On February 10, 2023, I attempted to call JAMES at phone number 248-XXX-4056, but the number was out of service. The same day, I emailed JAMES her trial subpoena at the same email address that I used when I served her on July 5, 2022. I did not receive an email receipt indicating that my email was read.

11. To date, I have received no response from JAMES.

12. I identified a possible residence for JAMES based on information provided by the State of Michigan Department of Health and Human Services of XXX35 Greensboro in Detroit, MI. I went to that address on March 1, 2023, and that address appeared to be a mostly empty house with various personal property at the curb as if someone had cleaned or emptied out the house. There was, however,

a dog inside the residence. A known 2008 Mercury associated with JAMES was not at the residence.

13. Additionally, I located a Detroit Police Department (DPD) report that JAMES made on February 8, 2023. In the report, JAMES provided an address of XXX00 Roxbury in Detroit, MI and a phone number of 313-XXX-9003. I went to that address on February 21, 2023, and it appeared to be a vacant house.

14. I have not attempted to contact JAMES at the telephone number provided to DPD on February 8, 2023, out of concern that JAMES will continue to avoid my efforts at serving her a subpoena for trial. Rather, my intention is to seek a warrant for location information for that phone number if a warrant is authorized for JAMES' arrest.

15. On March 2, 2023, I again went to XXX35 Greensboro in Detroit, MI to search for JAMES. No one was present at the location, but a dog was inside the residence. I spoke to a neighbor on the block who told me that no one has been at that residence in a week and the occupants are in the process of moving out.

16. On March 2, 2023, I again went to the XXX00 Roxbury in Detroit, MI to search for JAMES. No one was present at that residence and a neighbor informed me that no one has lived at that residence for months.

17. I have also attempted to identify addresses and phone numbers for JAMES through various law enforcement database checks, including but not

limited to out of state incident and arrest reports, address checks, driver's license checks, property checks, phone number checks, police contacts in the State of Michigan, and USPS inspection services. These checks have not provided information that has led to the current location of JAMES.

18. I also attempted to determine JAMES' location based on public social media postings but have been unsuccessful.

19. Accordingly, probable cause exists that the testimony of YOLANDA JAMES is material to an upcoming criminal proceeding against Marcus Smith, and it is impracticable to secure her presence by subpoena. Therefore, an arrest is warranted under 18 U.S.C. § 3144 (Release or Detention of a Material Witness).

Attempts to Contact and Serve Ronald Johnson

20. On July 5, 2022, I served JOHNSON, via email, a subpoena to testify at the trial in this case that was previously scheduled for August 23, 2022. I did receive an email receipt indicating that my email was read.

21. On August 22, 2022, I called JOHNSON, at phone number 586-XXX-4222, and informed him that the August 23 trial was postponed. Johnson appeared very agitated, stating that he was done going to court and felt that he should not have to appear because he had previously provided sworn testimony in this case.

22. On February 3, 2023, I received a subpoena from the United States Attorney's Office requiring JOHNSON to appear for the March 21, 2023, trial in this case.

23. On February 10, 2023, I called JOHNSON at phone number 586-XXX-4222, and no one answered. I called again immediately, and JOHNSON answered the phone, stating, "hello." After I responded and greeted JOHNSON, he hung up. I have had several conversations with JOHNSON throughout the investigation and prosecution of this case and recognized his voice. After JOHNSON hung up, I sent him a text message asking him to call me. To date, I have not received a response.

24. The same day, I emailed JOHNSON his trial subpoena at the same email address that I used when I served him on August 23, 2022. I have not received an email receipt indicating that my email was read.

25. On February 15, 2023, FBI Special Agent Joel Kelso called JOHNSON at the 586-XXX-4222, and no one answered. Special Agent Kelso then sent JOHNSON a text message, to the same phone number, stating that I was attempting to contact JOHNSON.

26. To date, JOHNSON has not responded to me or Special Agent Kelso.

27. I identified a possible residence of 2XXX5 Utica Rd. in Roseville, MI for JOHNSON based on information provided by the State of Michigan

Department of Health and Human Services. However, 2XXX5 Utica Road is a multi-dwelling, multi-unit apartment complex and it is unknown to what apartment number JOHNSON is associated.

28. On March 2, 2023, I went to the apartment complex at 2XXX5 Utica Road, Roseville, MI. I went to the leasing office at the apartment complex in an effort to determine if JOHNSON was a resident at the complex. No one was present at the leasing office and there was a lock-box on the door suggesting to me that the office is not frequented often.

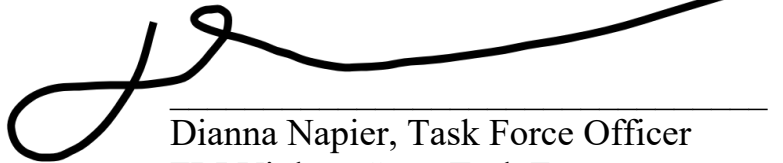
29. While at the apartment complex at 2XXX5 Utica Road, Roseville, I observed a vehicle that was registered to a female who was the girlfriend of JOHNSON. I do not, however, know if they are still together.

30. I have also attempted to identify addresses and phone numbers for JOHNSON through various law enforcement database checks, including but not limited to out of state incident and arrest reports, address checks, driver's license checks, property checks, phone number checks, police contacts in the State of Michigan, and USPS inspection services. These checks have not provided information that has led to the current location of JOHNSON.

31. I also attempted to determine JOHNSON'S location based on public social media postings but have been unsuccessful.

32. Accordingly, probable cause exists that the testimony of RONALD JAMES JOHNSON is material to an upcoming criminal proceeding against Marcus Smith, and it is impracticable to secure his presence by subpoena. Therefore, an arrest is warranted under 18 U.S.C. § 3144 (Release or Detention of a Material Witness).

Respectfully submitted,



Dianna Napier, Task Force Officer
FBI Violent Gang Task Force

Date: March 2, 2023